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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/694,438

10/28/2003

Chunhua Yan

CL001220-DIV

1332

25748

7590

06/22/2006

EXAMINER

LI, RUIXIANG

CELERA GENOMICS

ATTN: WAYNE MONTGOMERY, VICE PRES, INTEL PROPERTY

45 WEST GUDE DRIVE

C2-4#20

ROCKVILLE, MD 20850

ART UNIT

PAPER NUMBER

1646

DATE MAILED: 06/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/694,438	YAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ruixiang Li	1646	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 24-38 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,37 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3 and 24-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>Sequence alignment</u> .               |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group II in the reply filed on 04/10/2006 is acknowledged. The traversal is on the ground(s) that the search and examination necessary to examine the claims of both groups I and II together is substantially similar to the search and examination necessary to examine either group I or group II alone and would not unduly burden the examiner with additional review issues. This is not found persuasive because invention groups I and II are drawn to two entirely different products: a polypeptide and an antibody, which require non-cohesive considerations. Search and consideration of both invention groups constitute an undue burden on the Examiner.

The requirement is still deemed proper and is therefore made FINAL.

2. Applicants' preliminary amendment filed upon 04/10/2006 has been entered in full. Claims 1-3 have been amended. Claims 4-23 have been canceled. Claims 24-38 have been added. Claims 1-3 and 24-38 are pending. Claims 3 and 24-36 are currently under consideration. All other claims are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Drawings***

3. The drawings filed on 10/28/2003 are accepted by the examiner.

***Claim Rejections—35 USC §102 (e)***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 3 and 24-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Tang et al. (U. S. 2003/0235883 A1, publication date: December 25, 2003; 102 (e) date: March 31, 2000).

Tang et al. teach a polypeptide that is 68.6% identical to the polypeptide of SEQ ID NO: 2 and comprising amino acids 224 to 710 of SEQ ID NO: 2 of the present invention (see attached sequence alignment). Tang et al. teach an antibody that binds to the polypeptide or its fragments, including a monoclonal antibody, various fragments of the antibody, such as F(ab')<sub>2</sub> fragments ([0321]), and an antibody conjugated to a radioactive isotope ([0362]).

Tang et al. also teach a composition comprising an antibody ([0283]) and a pharmaceutically acceptable carrier ([0285], [0287], [0319]). Tang et al. further teach a portion or a fragment of the polypeptide may be used as an immunogen to generate an antibody that immunospecifically bind the antigen ([0322]). Since the antibody binds to the amino acids 224 to 710 of SEQ ID NO: 2 necessarily binds the full-length polypeptide of SEQ ID NO: 2 of the present invention, the teaching of Tang et al. meets the limitations of claims 3 and 24-36.

6. The prior art made of record in PTO-892 form is considered pertinent to Applicants' disclosure.

Shao et al. (J. Biol. chem. 275:26914-26924, 2000) teach a RalGEF-like protein, RGL3, as a candidate effector for Rit and Ras, which is 79% identical to the polypeptide of SEQ ID NO: 2 of the present invention (see Fig. 2C of the instant disclosure). However, Shao et al. do not teach or suggest the instantly claimed invention.

### ***Conclusion***

7. No claims are allowed.

### ***Advisory Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruixiang Li whose telephone number is (571) 272-0875. The examiner can normally be reached on Monday through Friday from 8:30 am to 5:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol, can be reached on (571) 272-0835. The fax number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you

Art Unit: 1646

have questions on access to the Private PAIR system, please contact the Electronic Business Center (EBC) at the toll-free phone number 866-217-9197.

*Ruixiang Li*

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Primary Examiner  
June 19, 2006

RUIXIANG LI, PH.D.  
PRIMARY EXAMINER